

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

CHARLES SHORTER,

Petitioner,

-v-

**WARDEN,
Lebanon Correctional Institution**

Respondent.

Case No. 3:14-cv-222

**Judge Thomas M. Rose
Magistrate Judge Michael R. Merz**

ENTRY AND ORDER OVERRULING SHORTER'S OBJECTION (Doc. #15) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #14); DISMISSING SHORTER'S PETITION FOR A WRIT OF HABEAS CORPUS; DENYING A CERTIFICATE OF APPEALABILITY AND CERTIFYING THAT ANY APPEAL WOULD BE OBJECTIVELY FRIVOLOUS

Pro se Petitioner Charles Shorter filed a Petition for a Writ of Habeas Corpus. (Doc. #3.) The Warden then filed a Motion To Dismiss. (Doc. #7.) On October 2, 2014, Magistrate Judge Michael R. Merz issued a Report and Recommendations recommending that the Warden's Motion To Dismiss be granted. (Doc. #11.) Shorter was transferred from the Lebanon Correctional Institution to the Marion Correctional Institution and apparently did not receive a copy of the October 2, 2014 Report and Recommendations. On October 10, 2014, Shorter filed a Traverse/Reply to Respondent's Motion To Dismiss Habeas Petition. (Doc. #12.)

To avoid any dispute over timeliness or completeness of filings, Magistrate Merz withdrew the October 2, 2014 Report and Recommendations, and considered Petitioner's Motion To Dismiss de novo including consideration of Shorter's Traverse/Reply. Magistrate Merz then issued another Report and Recommendations on October 24, 2014 (doc. #14) to which Shorter

objected (doc. #15.) The time has run and the Warden has not responded to Shorter's Objections. This matter is, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Shorter's Objections to the Magistrate Judge's October 24, 2014 Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's October 24, 2014 Report and Recommendations is adopted in its entirety.

Shorter's Petition for a Writ of Habeas Corpus is dismissed. Further, Shorter is denied a certificate of appealability and any appeal of this matter would be objectively frivolous. Finally, the captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and ORDERED in Dayton, Ohio this Twenty-Sixth Day of November, 2014.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Charles Shorter at his last address of record